

# Jurisdictional Delineation/Assessment

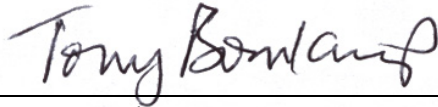
Antonio Parkway Widening Project


County of Orange, California

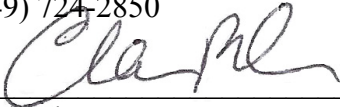
Caltrans District 12

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STATE OF CALIFORNIA  
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## INTRODUCTION

### **Project Background**

Federal, state and local agencies, in cooperation with local landowners completed a comprehensive land use and natural resource planning process for the San Juan Creek and western San Mateo Creek watersheds within southern Orange County. This comprehensive planning process included preparation of a Special Area Management Plan (SAMP) by the U.S. Army Corps of Engineers (USACE) and a Master Streambed Alteration Agreement (MSAA) by the California Department of Fish and Game (CDFG). In support of the SAMP, the USACE conducted a landscape level delineation, to identify areas of potential USACE and CDFG jurisdiction along with the mapping of areas of potential wetlands and riparian habitat within the SAMP and MSAA study area.<sup>1</sup>

In addition to the planning level delineation, Regulatory Specialists from Glenn Lukos Associates (GLA) conducted a project level jurisdictional delineation between October 29, 2002 and November 5, 2003 to identify and quantify the extent of areas subject to the jurisdiction of the (1) USACE pursuant to Section 404 of the Clean Water Act<sup>2</sup> and (2) the CDFG pursuant to Section 1600 of the Fish and Game Code.<sup>3</sup> The Antonio Parkway Bridge crossing of San Juan Creek was included in the subject delineation.

Prior to issuance of the Individual Permit through the SAMP or the MSAA, the USACE and CDFG agreed to permit the proposed widening of the Antonio Parkway Bridge as a component of Planning Area 1 of the Rancho Mission Viejo Ranch Plan. The following permits were issued by the Regulatory Agencies that fully address the proposed impacts to San Juan Creek associated with the Antonio Parkway Bridge construction:

- Department of the Army, Los Angeles District of the U.S. Army Corp of Engineers. Section 404 Permit 200602159-YJC. January 11, 2007.
- Department of the Army, Los Angeles District of the U.S. Army Corp of Engineers. Letter extending Section 404 Permit 200602159-YJC to January 11, 2015. Letter dated November 4, 2009.
- California Department of Fish and Game. Streambed Alteration Agreement 1600-2006-0178-R5. July 24, 2007

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<sup>1</sup> Lichvar, R., G. Gustina, D. MacDonald, and M. Ericsson. 2000. *Planning Level Delineation and Geospatial Characterization of Riparian Ecosystems of San Diego Creek Watershed, Orange County California*. Prepared for the U.S. Army Corps of Engineers, Engineering and Research Development Center (ERDC) Cold Regions Research and Engineering Laboratory (CRREL), Hanover N.H. September 2000.

<sup>2</sup> Glenn Lukos Associates. *Jurisdictional Delineation of Areas Subject to the Jurisdiction of the U.S. Army Corps of Engineers Pursuant to Section 404 of the Clean Water Act*. November 2003.

<sup>3</sup> Glenn Lukos Associates. *Jurisdictional Delineation of Areas Subject to the Jurisdiction of the California Department of Fish and Game*. November 2003.

- California Regional Water Quality Control Board, San Diego Region. Tentative Order No. R9-2006-0104: Waste Discharge Requirements and Section 401 Water Quality Certification for Rancho Mission Viejo, LLC, Rancho Mission Viejo Ranch Plan Planning Area 1, Orange County. September 8, 2009.

### **Project Location and Ownership**

The existing Antonio Parkway Bridge spans San Juan Creek approximately 1,300 feet north of Ortega Highway [Exhibits 1 and 2]. Antonio Parkway is a County of Orange facility and is included in the Master Plan of Arterial Highways (MPAH).

### **METHODOLOGY**

Prior to beginning the field delineation of San Juan Creek in the vicinity of the Antonio Parkway Bridge, a 200-scale color aerial photograph, a 200-scale topographic base map of the property, and the USGS topographic maps Cañada Gobernadora (dated 1968, photo revised in 1988) and San Juan Capistrano (dated 1968 and photo revised in 1981) were examined to determine the locations of potential areas of USACE/CDFG jurisdiction. The study area included all of San Juan Creek within Planning Area 1 of the Ranch Plan, a portion of which is depicted on Exhibits 3a and 3b.

All suspected jurisdictional areas were field checked for the presence of definable channels and/or wetland vegetation, soils and hydrology. Suspected wetland habitats on the site were evaluated using the methodology set forth in the U.S. Army Corps of Engineers 1987 Wetland Delineation Manual<sup>4</sup> (Wetland Manual). While in the field the jurisdictional area was recorded onto a 200-scale color aerial photograph using visible landmarks. Other data were recorded onto wetland data sheets.

Beginning on March 11, 2003, Regulatory Specialists from GLA; a representative of Rancho Mission Viejo; representatives of the USACE including Mr. Russell Kaiser, Ms. Corice Farrar, and Mr. Rob Lawrence; and representatives of CDFG including Mr. Don Chadwick, Mr. Bradley Henderson, and Ms. Donna Cobb conducted a field verification of the project level delineation.

The field verification was completed on October 27, 2003 with the exception of specific areas to be addressed during a field review on November 20, 2003 with senior staff from the USACE. The results of the field verification with the USACE and CDFG are incorporated into Exhibits 3a and 3b of this document.

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<sup>4</sup> Environmental Laboratory. 1987. Corps of Engineers Wetlands Delineation Manual, Technical Report Y-87-1, U.S. Army Engineer Waterways Experimental Station, Vicksburg, Mississippi.

## RESULTS

### **Setting**

The San Juan Creek watershed is largely undeveloped and the creek exhibits high levels of hydrologic, biogeochemical, and habitat function. San Juan Creek is an intermittent stream in the vicinity of the Antonio Parkway Bridge, typically flowing with the onset of winter rains, with flows persisting into late spring or early summer in most years and would be considered a “Relatively Permanent Water” (RPW) as set forth in USACE guidance on Rapanos. As such, the USACE’s previous determination that San Juan Creek is subject to jurisdiction under Section 404 remains unaffected by the Rapanos decision.<sup>5</sup>

Where the existing Antonio Parkway Bridge spans San Juan Creek and the areas proposed for temporary impacts, the creek ranges from about 400 to 500 in width and includes low-flow channels lined by wetland and riparian vegetation alternating with adjacent terraces that are sparsely vegetated with upland forbs and subshrubs. Wetland areas are dominated by southern cattail (*Typha domingensis*, OBL), white watercress (*Rorippa nasturtium-aquaticum*, OBL), arroyo willow (*Salix lasiolepis*, FACW), black willow (*Salix gooddingii*, OBL), and mulefat (*Baccharis salicifolia*, FACW). The lower non-wetland terraces exhibit an Ordinary High Water Mark (OHWM) characterized by the presence of litter and debris (debris wrack), shelving and terracing, and destruction of terrestrial vegetation. Where the terraces exhibit vegetation, it is sparse and includes shrubs adapted to periodic high-energy flows such as scalebroom (*Lepidospartum squamatum*) and mulefat.

### **USACE Jurisdiction/Impacts to USACE Jurisdiction**

USACE jurisdiction for the area subject to temporary or permanent impacts resulting from widening of the bridge totals 2.536 acres of which 0.180 acre consists of wetlands. Construction will result in permanent impacts to 0.006 acre due to construction of two pilings within non-wetland portions of the creek (the locations of the two pilings are depicted on Exhibit 3a). Temporary impacts will affect 2.530 acres of San Juan Creek including 0.180 acres of wetlands.

### **CDFG Jurisdiction/Impacts to CDFG Jurisdiction**

CDFG jurisdiction for the area subject to temporary or permanent impacts resulting from widening of the bridge totals 2.546 acres of which 1.430 acres consist of unvegetated or sparsely vegetated terraces or channels and 1.110 acres consist of vegetated riparian habitat. Construction will result in permanent impacts to 0.006 acre due to construction of two pilings including 0.003 acre of unvegetated streambed or terrace and 0.003 acre of riparian habitat (the locations of the two pilings are depicted on Exhibit 3a). Temporary impacts will affect 2.346 acres of San Juan Creek including 0.180 acres of wetlands.

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<sup>5</sup> On June 5, 2007, the U.S. Environmental Protection Agency (EPA) and Corps issued joint guidance that addresses the scope of jurisdiction pursuant to the Clean Water Act in light of the Supreme Court’s decision in the consolidated cases *Rapanos v. United States* and *Carabell v. United States* (“Rapanos”).

### **Mitigation for Permanent and Temporary Impacts**

As described in the Section 404 and 1602 Authorizations for the project, permanent impacts will be mitigated through application of credits within the Gobernadora Ecological Restoration Area (GERA), an existing restoration area located on Rancho Mission Viejo. The credit areas for Planning Area 1 including the widening of Antonio Parkway have been identified and assigned. Temporary impacts will be mitigated through revegetation at the project site following completion of construction.